

**MINUTES
of the
FIRST MEETING
of the
LAND GRANT COMMITTEE**

**June 18, 2008
Piñon Meeting Room, State Records and Archives Center
Santa Fe**

The first meeting of the interim Land Grant Committee was called to order by Senator Richard C. Martinez, chair, at 10:22 a.m. on Wednesday, June 18, 2008, at the State Records and Archives Center in Santa Fe.

Present

Sen. Richard C. Martinez, Chair
Rep. Miguel P. Garcia, Vice Chair
Rep. Paul C. Bandy
Sen. Joseph J. Carraro
Rep. Thomas A. Garcia
Rep. Jimmie C. Hall
Rep. Debbie A. Rodella

Absent

Sen. Rod Adair
Sen. Gerald Ortiz y Pino
Sen. James G. Taylor

Advisory Members

Rep. Ben Lujan

Sen. Carlos R. Cisneros
Rep. Justine Fox-Young
Sen. Phil A. Griego
Sen. Bernadette M. Sanchez
Sen. William E. Sharer
Rep. Eric A. Youngberg

Staff

Jon Boller, Legislative Council Service (LCS)
Tamar Stieber, LCS
Kate Ferlic, LCS
Alicia Santos, LCS

Guests

The guest list is in the meeting file.

Handouts

All handouts are in the meeting file.

Interim Committee Protocols

Paula Tackett, director, LCS, addressed the following topics regarding interim committee protocols:

- A quorum consists of one-half plus one of the voting members assigned to the committee. Once a quorum is established, it is presumed to exist unless someone challenges it.
- If a quorum cannot be established, the committee can dissolve into a subcommittee. A subcommittee cannot vote, but it can hear testimony, and members may be reimbursed for attending. Subcommittees accommodate presenters and audience members who may have traveled a long way to attend. A subcommittee consists of a chair or vice chair, one house Democrat, one house Republican, one senate Democrat and one senate Republican.
- The speaker of the house and the president pro tempore have the authority to appoint substitute voting members to the committee if a quorum of voting members is not present. The general rule is that they appoint substitutes from the same house and party as the absent member so as not to "stack" the committee.
- Only voting members, as opposed to advisory members, may vote.
- The blocking provision states that no action shall be taken if a majority of members from one house who are assigned to that committee vote against a measure.
- The sound systems in committee rooms adjust automatically and are easily disrupted by background noise. Anyone having trouble hearing might check for excessive background noise (e.g., side conversations, paper rustling, typing, etc.). Open laptop screens can block the microphones. Microphones should be turned off until a member is ready to speak to avoid feedback.
- In creating the interim meeting calendar, the LCS tries to avoid conflicts as best it can. Any changes to the calendar must be approved by the Legislative Council.
- Seating preference will be given to committee members who respond to the LCS's meeting reminder.
- Committee members may attend up to four meetings of other committees with the permission of the respective chairs or vice chairs and with the knowledge of the president pro tempore or the speaker of the house.
- Committee members may resign at any time.

Welcome and Introductions

Senator Martinez announced a quorum at 10:41 a.m. After Ms. Tackett's presentation, he

asked members of the committee, the staff and the audience to introduce themselves.

State Archives

Sandra Jaramillo, director, State Records Center and Archives (SRAC), introduced members of the center's staff and read aloud from a handout with highlights of the center's activities since 2004 that relate to land grants. They include the following:

- 2004
 - As authorized by Senate Joint Memorial 10, the SRAC hired former State Historian Robert Torrez to conduct a study to determine which state properties were once part of the common lands of former Spanish- or Mexican-period land grants. The study identified three state agencies as owning such property and how many acres they own:
 - the Energy, Minerals and Natural Resources Department (EMNRD) with 2,045 acres;
 - the Department of Game and Fish (DGF) with 58,868 acres; and
 - the General Services Department (GSD) with 2,758 acres.
- 2005
 - The SRAC received a \$33,200 appropriation to continue its survey of state-owned property within former common lands and to document the chains of title for those properties. Mr. Torrez identified 22 separate parcels that merit full abstracts of title.
- 2007
 - The SRAC received \$45,000 in appropriations to conduct the abstracts.
 - The State Game Commission agreed to return 32.5 acres to the Merced del Pueblo de Abiquiú.
- 2008-2009
 - The SRAC hired LandAmerica Albuquerque Title Company to complete abstracts on seven state-owned parcels:
 - Coyote Creek State Park (Mora Land Grant);
 - William Humphries Wildlife Management Area (Tierra Amarilla Land Grant);
 - El Vado Lake State Park (Tierra Amarilla Land Grant);
 - Villanueva State Park (San Miguel del Vado Land Grant);
 - Storrie Lake State Park (Town of Las Vegas Land Grant);
 - New Mexico State Hospital (Town of Las Vegas Land Grant); and
 - Manzano Mountain State Park (Town of Manzano Land Grant).
 - The SRAC received a \$27,000 appropriation to digitize original land grant documents and make them available to the public online.
 - The SRAC will contract with Malcolm Ebright of the Center for Land Grant Studies to summarize the abstract findings, provide a history of each land grant in which state property is located and identify discrepancies in the chains of

title.

- The SRAC will hire a part-time, temporary employee to scan into the New Mexico Digital History Project approximately 130 land grant records.

Ms. Jaramillo said the center moved 12 years ago from Montezuma Street to its current location at 1205 Camino Carlos Rey, which it shares with the New Mexico State Library. Ms. Jaramillo thanked Speaker Lujan and retired Senator Joseph A. Fidel, both of whom she said were instrumental in the state acquiring the new building.

Melissa Salazar, director, Archives Division, SRAC, and Samuel Sisneros, senior archivist, SRAC, gave a PowerPoint presentation of the New Mexico Digital History Project (<http://www.newmexicohistory.org/>) and explained the painstaking process by which original documents are electronically scanned and archived on gold compact discs for use on the public web site. Noting that the documents are "incredibly fragile", Mr. Sisneros said the process of copying a single page is very time-consuming because it involves retrieving a document from the vault, removing it from the Mylar sleeve and using a microspatula to flip the page very carefully onto the platen. Sometimes the documents are out of order and have to be arranged chronologically. He said the scanning process takes an average of two minutes per page and that it causes some minimal damage to documents by exposing them to light. He noted, however, that once a document is scanned, it no longer has to be handled physically, thus eliminating future damage.

In addition to displaying original documents, the web site will offer context and provide hyperlinks to relevant essays. It will also provide transcriptions for hard-to-read documents and translations of Spanish-language documents. The latter will include translations from the 1930s by the Work Projects Administration. Responding to a comment from the audience, Ms. Jaramillo acknowledged that early translations of land grant documents were often inaccurate and biased. She said contemporary translators will include the state historian; Malcolm Ebright, director, Center for Land Grant Studies; and former state archivist Richard Salazar.

Ms. Jaramillo said that, except for court records, all of the documents for the history project were donated. Former Lieutenant Governor Roberto Mondragon noted that many old land grant documents are kept in shoe boxes. He said the state historian's web site represents "a good opportunity to encourage all land grants to archive their documentation in some place that will have much more permanency".

Senator Martinez suggested that the committee write a letter to all land grants, encouraging them to allow the SRAC to copy and digitize their historical documents. Arturo Archuleta, director of land grant services, North Central New Mexico Economic Development District (NCNMEDD), said people fear that if they lend out their documents, they will no longer have access to them. He said that ensuring free access to their documents will go a long way in encouraging land grants to loan them to the state archives. Senator Martinez agreed, noting that many local churches that gave santos, crosses and other historical relics to the archdiocese now have to ask permission to borrow them. He requested that Mr. Archuleta and Mr. Boller draft a letter to land grants and that the committee come up with a policy. Ms. Jaramillo suggested a

policy similar to one that the SRAC has with acequia associations, in which the parties sign five-year loans for documents, which the SRAC makes available to the associations.

Responding to a question from the audience about land grant documents belonging to federal agencies, Ms. Jaramillo said that, in 1973, New Mexico's first state historian, Myra Ellen Jenkins, helped negotiate an agreement to house federal Bureau of Land Management (BLM) records in New Mexico rather than in Denver. However, she said, many still remain in Denver as well as in Fort Worth, Texas. She said the state can try to arrange a loan agreement for those documents. In addition, she said, the state learned about U.S. Survey General files that were being sold at a bookstore and negotiated with the U.S. National Archives and Records Administration for their release to New Mexico.

Mr. Mondragon pointed out that many land grant documents remain in Mexico, notably in Durango and Mexico City, as well as in Spain. He suggested, to general laughter, that the Land Grant Committee hold meetings in those countries. Ms. Jaramillo responded that the SRAC does want to go to Spain and Mexico to microfilm or scan New Mexico-related historical documents. Dr. Manuel Garcia y Griego, director of the Southwest Hispanic Research Institute at the University of New Mexico (UNM), said the institute is attempting to get copies of documents from Guadalajara that related to the land grant of the Camino Real.

Representative Miguel Garcia said the SRAC has some original documentation required for land grants to file for subdivision status. He suggested that the SRAC make copies for the land grants. He said it is important for land grants to have title to their own documents and suggested land grants "copyright" their documents before loaning them to the state in order to retain legal title. He called it "kind of shaky" when a land grant brings its historical documents to a state entity and only gets credit for volunteering its documents. He said the land grant deserves more than just a thank you. He noted that the Anton Chico Land Grant got copies from the Oñate Center in Española of its own documentation, which the U.S. Government Accountability Office (GAO) called the most extensive in the state. He recalled how one heir kept historic documents in wax paper and suggested that the SRAC offer training, perhaps through workshops, on how to preserve such documents.

Ms. Jaramillo responded that the SRAC can show a digital watermark on any document stating that copies are available only with the permission of the *merced* (land grant) that owns the document. She added that the SRAC provides grants to organizations to buy supplies to preserve their historical documents and that the center would be happy to talk to land grants about how to apply for those grants.

Mr. Mondragon recalled how land grant heirs gathered documents and submitted them to the GAO for its comprehensive study on land grants, but that the GAO did not return the documents when requested to do so. He suggested that the committee collaborate with New Mexico's congressional delegation to make those documents available to the state, perhaps through the SRAC.

Dr. Garcia y Griego said the GAO agreed during a presentation to the UNM School of

Law to make its archives available to the state. He said the state cannot determine how the GAO came to its conclusions in the land grant study without seeing the material upon which it based those conclusions.

Representative Hall asked about the SRAC's relationship with UNM's Zimmermann Library. Ms. Jaramillo said the agencies have an unwritten agreement to provide copies of documentation to each other at no cost. She said both agencies submit their findings to the Rocky Mountain Online Archive, which tracks information in New Mexico, Colorado and Wyoming.

The committee asked Ms. Jaramillo to include funding for the projects the SRAC was working on as a part of the SRAC's operating budget.

Tour of the State Records and Archives Center

The committee toured the SRAC, including viewing a selection of historical books and documents from the archives, and reconvened in the meeting room at 12:35 p.m.

Atrisco Land Grant

Richard Griego, secretary of the board of trustees of the Town of Atrisco Land Grant, requested a bill for the land grant to get political subdivision status so that the heirs can have a "seat at the table" in establishing a trust fund for recognized land grants. Senator Carraro noted that the heirs sold Atrisco's common lands to SunCal Companies, a private development firm. Mr. Griego said the Town of Atrisco Land Grant consists of more than *ejidos* (common lands), but also includes *solares*, or land granted to an individual. Thus, he said, the land grant still exists, and the heirs want to be compensated if a trust fund is established. He said SunCal would not benefit if the land grant reconstitutes itself by combining *solares* to establish a land base. He explained that SunCal is a separate entity from the land grant, which comprises three entities: the Atrisco Heritage Foundation, which promotes and preserves heritage and history of the land grant; El Campo Santo, Inc., which oversees the cemetery in which the land grant heirs are buried; and Atrisco Oil and Gas, LLC, which owns the mineral rights on the land grant. Mr. Griego stressed that he represents only lineal heirs to the Town of Atrisco Land Grant, not the Westland Development Company, a stockholder corporation established in 1967 to manage and maintain the land grant and whose shareholders include non-heirs. It was Westland that sold the common lands to SunCal.

Speaker Lujan asked how Atrisco intended to formalize a land grant when it has no common lands. Mr. Griego said that because the *solares* are still maintained by lineal heirs, the land grant "exists and persists". Representative Miguel Garcia said it is not out of the ordinary for the Land Grant Committee to pursue political subdivision status for a land grant with no common lands. Representative Miguel Garcia requested that the Town of Atrisco Land Grant issue be added to the committee's work plan, including a presentation by representatives of the land grant and SunCal and drafting legislation to grant it political subdivision status.

Representative Thomas Garcia said he thought that a land grant need not have common lands in order to achieve political subdivision status. However, he said, only land grants that

lost land due to political and financial "shenanigans" in the 1800s would qualify for compensation. Mr. Griego pointed out that the land grant originally had 88,000 acres, but that was reduced to 55,000 acres due to encroachment, fraud and other unjust taking of its lands in the past, including by the City of Albuquerque. Representative Thomas Garcia said that is yet to be determined, but if it is true, then he would support looking into potential compensation for the land grant. For now, he said, he supports his colleagues' efforts to discuss the issue, but noted that a land grant does not need political subdivision status to receive compensation.

Representative Rodella said she wants to be sure that all parties, opponents and proponents, are at the table if the committee includes the Town of Atrisco Land Grant in its work plan. She said she is confused about why private land holdings can be considered a land grant, especially "when the common lands were to be held in perpetuity and not sold off". Mr. Griego pointed out that land grants have been established around private land. Representative Rodella replied that she would not personally trust anyone to place her private holdings in a land grant, especially after people who were looking after the common lands sold them. Mr. Griego said the purpose of making the private holdings a land grant is not to encumber those lands in any way, but to re-create a historical community. Representative Rodella replied, "Well they already had that, Mr. Chairman, and now it's gone."

Speaker Lujan asked what Mr. Griego's personal interest in the land is. Mr. Griego said he does not own any of the private holdings, but that he is a bloodline heir of the Town of Atrisco Land Grant. Speaker Lujan pointed out that Mr. Griego got paid for whatever shares he owned in Westland. Mr. Griego responded that whatever money he got from the sale of the land to SunCal was used to try to stop the sale.

Noting that a similar situation occurred on his own land grant, Speaker Lujan said he sympathizes with Atrisco and that the committee needs to explore the legal issues. To Mr. Griego's question about how Atrisco differs from Tomé, Speaker Lujan said Tomé's land was stolen while the Town of Atrisco Land Grant sold its land.

Mr. Griego said he does claim fraud because the land sold to SunCal was worth \$2 billion, but was sold for only \$250 million. "In my opinion, the board of directors of Westland was involved in a fraudulent transaction", he said. "They benefited personally to a certain extent more than other heirs did for shares they gave to themselves for free – Class B shares. So if fraud is the standard, then we're going to ask for a seat at the table because there was fraud."

Representative Bandy said the committee should not be discussing specifics at this point, but should only discuss whether to include the Atrisco Land Grant in the committee's work plan, which he said he supports.

Mr. Archuleta of NCNMEDD said that he wanted to put the issue into context. The fraud perpetrated on most land grants occurred historically, he said – between 60 and 200 years ago. In contrast, Atrisco lost its common lands relatively recently in what may have been a legal transaction. But numerous historical land grant transactions deemed legal at the time were

later found to be fraudulent, he said, describing the Atrisco issue as "shares versus heirs". Not every heir had an opportunity to voice an opinion on the sale, he said, and many heirs did not benefit from it. He said the sale could be "maybe another great chicanery that took place" or it could be legal. In either case, he said, it behooves the committee to see what actually happened, and that may require some legal research.

On a motion made, seconded and unanimously approved, the committee agreed to add the Town of Atrisco Land Grant issue to its work plan for the 2008 interim.

San Antonio de Las Huertas Land Grant

Tony Lucero, president of San Antonio de Las Huertas Land Grant, asked the committee to draft a letter or a memorial to the BLM for the return of approximately 600 acres of land grant property that the BLM currently manages. He said the National Register of Historic Places recognizes the land. He added that the BLM has in recent years disposed of up to 6,000 acres in the Placitas area that were originally within the historical boundaries of the land grant and that the land grant wants only a portion of that back.

Mr. Lucero said the San Antonio de Las Huertas Land Grant has been in existence since 1765, though some heirs trace their ancestors there back to 1598. He said the land grant lost most of its property over the centuries to the federal government, including the 12,841-acre Tejon tract that he said the government gave away erroneously and patented illegally due to the machinations of Thomas B. Catron.

He showed the committee a handout, a copy of which is in the meeting file, describing the desired tracts of land and the history of the land grant.

Representative Thomas Garcia said the BLM will only accept a letter within a certain period of time and that the letter would ask the BLM to consider the acreage "disposable property". Mr. Lucero said the deadline is the end of July.

A motion to draft a letter to the BLM requesting that it consider disposing of the 600 acres identified by the San Antonio de Las Huertas Land Grant and that the land grant get first priority in acquiring it was made, seconded and passed without objection.

Work Plan, Meeting Dates and Locations

The committee voted without opposition to consider the following issues and topics during the 2008 interim and develop appropriate legislation for the 2009 legislative session:

- legislation creating a single state agency to deal with community land grant issues on an ongoing basis and act as a liaison between community land grants and local, state and federal government agencies;
- reviewing operation of the Treaty of Guadalupe Hidalgo Division of the Office of the Attorney General and request funding of the division as part of the base budget of the Office of the Attorney General;

- hearing the attorney general's response to the 2004 GAO report on community land grants;
- examining the implications of granting political subdivision status to community land grants, including:
 - state auditor requirements for auditing of community land grants;
 - Department of Finance and Administration procedures for evaluating and approving \$200,000 in capital outlay appropriations to community land grants;
 - allowing the purchase of insurance from the Risk Management Division of the GSD by boards of trustees;
 - amendments to election procedures for boards of trustees;
 - requesting the BLM's Rio Puerco office to work with land grants that are political subdivisions on transfers of property slated for disposal by the BLM; and
 - whether or not to make the Town of Atrisco Land Grant a political subdivision of the state;
- amendments to statutes governing delinquent tax sales of land located within boundaries of community land grants;
- reviewing title abstracts by the State Commission of Public Records on state-owned property located within the historic boundaries of community land grants;
- receiving an update on the establishment of a land grant studies program at UNM and considering continued funding of the program;
- the following DGF issues:
 - follow up on the transfer of DGF property to Abiquiú;
 - review a big-game proposal;
 - review the open-gate program; and
 - receive a report on the Bill Humphries Wildlife Area;
- inviting the EMNRD to address ownership of former land grant property;
- determining the need to ask the U.S. Forest Service to permit more firewood gathering in national forests; and
- a proposal to allow conservation easements on the common lands of community land grants.

The committee agreed to the following meeting schedule:

- July 10 and 11: Carnuel/Chilili;
- August 14 and 15: El Rito/Abiquiú; and

- September 29 and 30: UNM.

Members agreed to request an additional meeting on October 31 in Santa Fe.

The committee adjourned at 2:08 p.m.